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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/523,001

05/12/2008

Christopher Davies

UDL-124B

4221

36822 7590 11/15/2010  
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EXAMINER

ALIE, GHASSEM

ART UNIT

PAPER NUMBER

3724

MAIL DATE

DELIVERY MODE

11/15/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/523,001	<b>Applicant(s)</b> DAVIES ET AL.	
	<b>Examiner</b> GHASSEM ALIE	<b>Art Unit</b> 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 November 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 45-50 is/are pending in the application.
- 4a) Of the above claim(s) 49 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 45-48 and 50 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 January 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>01/26/06</u> . | 6) <input type="checkbox"/> Other: _____  |

***Election/Restrictions***

1. Applicant's election of Invention I (claims 45-50) and Subgroup IB (claim 49) in a reply filed on 11/09/10 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claim 49 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to nonelected inventions, there being no allowable generic or linking claim.

***Drawings***

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the a blade carrier and a device engagement arrangement and a blade adjustment arrangement set forth in claims 45 and 46; and a cut plane which is spaced below the level of the device engagement device or means, as set forth in claims 47 and 48 must be shown or the feature(s) canceled from the claim(s). It is not clear what encompasses a blade carrier, a device engagement arrangement, and a blade adjustment arrangement. No new matter should be entered

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the

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brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

4. The specification is objected to under 37 CFR 1.71 because it fails to clearly disclose what encompasses a blade carrier, a device engagement arrangement, and a blade adjustment arrangement. Therefore, it is hard to find antecedent basis for the limitations set forth in the claims. The specification also does not disclose that the device is adjustable with respect to the blade portion relative to its spacing below the device. The specification does not disclose that the blade defines a cut plane which is spaced below the level of the device engagement means. The specification considered a roller as an engagement arrangement or member. However, the specification does not disclose how the cut plane of the blade is positioned below the engagement arrangement or roller.

### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

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6. Claims 45-48 and 50 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Regarding claims 45 and 46, the specification does not disclose what encompasses a blade carrier, a device engagement arrangement, and a blade adjustment arrangement. Regarding claim 47, the specification does not disclose that the device is adjustable with respect to the blade portion relative to its spacing below the device. Regarding claim 48, the specification does not disclose that the blade defines a cut plane which is spaced below the level of the device engagement means. The specification considered a roller as an engagement arrangement or member. However, the specification does not disclose how the cut plane of the blade is positioned below the engagement arrangement or roller.

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 47, 48 and 50 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claim 47, “the device is adjustable with respect to the blade position relative to its spacing below the device engagement arrangement” is confusing. It is not clear how the device is adjustable. It is not clear what part of the device is adjustable relative to its spacing below the device engagement arrangement. Regarding claim 48, “the device engagement means” lacks antecedent basis. Regarding claim 50, “the blade is

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spaced from and adjacent (preferably substantially parallel to) the plane surface” is confusing. The limitation in the parentheses does not limit the scope of the claim. If applicant wants the limitation within the parentheses to be considered, the parentheses should be removed.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

a person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claim 45-48 and 50, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Chase, Jr. (959,311), hereinafter Chase. Regarding claim 45, Chase teaches a cutting device including a blade carrier 6, a device engagement arrangement 13 for setting the device against a surface, and a blade adjustment arrangement (defined by the rod and the locking mechanism of the head or carrier 6) for adjusting the position of a blade 9 relative to the surface. It should be noted that the position of the blade 9 relative to the surface is adjustable in both vertical and horizontal planes. See Figs. 1-3 in Chase.

Regarding Claim 46, Chase teaches a device comprising a blade carrier 6 and a device engagement arrangement 13 for setting the device against a surface such that a blade 9 carried by the blade carrier cuts at a predetermined cut plan relative to the device engagement arrangement. It should be noted that the plane of the blade is spaced from the plane of the device engagement arrangement 13.

Regarding claims 47 and 48, Chase teaches everything noted above including that the device is adjustable with respect to the blade position relative to its spacing below the device engagement arrangement. It should be noted that at least during cut the blade can be positioned below the level of the device engagement arrangement. The blade also can be positioned below the level of the device engagement arrangement when the device engagement arrangement 13 is located on the surface that is curved or inclined.

Regarding claim 50, Chase teaches everything noted above including that the cut plane of the blade 9 is spaced from and adjacent the plane surface against which the device engagement arrangement 13 is placed.

11. Claim 45-48 and 50, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Esch (3,286,573). Regarding claim 45, Esch teaches a cutting device including a blade carrier 9, a device engagement arrangement 1 for setting the device against a surface, and a blade adjustment arrangement (defined by the rod 3, rod 5, and adjustment mechanism in housing 4) for adjusting the position of a blade 10 relative to the surface. It should be noted that the position of the blade 10 relative to the surface is adjustable in both vertical and horizontal planes. See Figs. 1-2 in Esch.

Regarding Claim 46, Esch teaches a device comprising a blade carrier 9 and a device engagement arrangement 1 for setting the device against a surface such that a blade 10 carried by the blade carrier 9 cuts at a predetermined cut plan relative to the device engagement arrangement 1. It should be noted that the plane of the blade 10 is spaced from the plane of the device engagement arrangement 1.

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Regarding claims 47 and 48, Esch teaches everything noted above including that the device is adjustable with respect to the blade position relative to its spacing below the device engagement arrangement. It should be noted that at least during cut the blade 10 can be positioned below the level of the device engagement arrangement. The blade also can be positioned below the level of the device engagement arrangement when the device engagement arrangement 1 is located on the surface that is curved or inclined.

Regarding claim 50, Esch teaches everything noted above including that the cut plane of the blade 10 is spaced from and adjacent the plane surface against which the device engagement arrangement 1 is placed.

12. Claim 45-48 and 50, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Kozyrski et al. (5,014,436), hereinafter Kozyrski. Regarding claim 45, Kozyrski teaches a cutting device including a blade carrier 10, a device engagement arrangement 76 for setting the device against a surface, and a blade adjustment arrangement (defined by the screws 75 on the elements 73 and 104) for adjusting the position of a blade 44 relative to the blade carrier. See Figs. 1-11 in Kozyrski.

Regarding Claim 46, Kozyrski teaches a device comprising a blade carrier 10 and a device engagement arrangement 76 for setting the device against a surface such that a blade 44 carried by the blade carrier 10 cuts at a predetermined cut plan relative to the device engagement arrangement 76. It should be noted that the plane of the blade 44 is spaced from the plane of the device engagement arrangement 76.

Regarding claims 47 and 48, Kozyrski teaches everything noted above including that the device is adjustable with respect to the blade position relative to its spacing below the



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device engagement arrangement. It should be noted that at least during cut the blade 44 can be positioned below the level of the device engagement arrangement. The blade also can be positioned below the level of the device engagement arrangement when the device engagement arrangement 76 is located on the surface that is curved or inclined.

Regarding claim 50, Kozyrski teaches everything noted above including that the cut plane of the blade 44 is spaced from and adjacent the plane surface against which the device engagement arrangement 76 is placed.

13. Claim 45-48 and 50, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Augustin et al. (3,532,260), hereinafter Augustin. Regarding claim 45, Augustin teaches a cutting device including a blade carrier 22, a device engagement arrangement 29 for setting the device against a surface, and a blade adjustment arrangement 31, 32 for adjusting the position of a blade 23 relative to the surface. It should be noted that the position of the blade 23 relative to the surface is at least adjustable in a vertical direction. See Figs. 1-3 in Augustin.

Regarding Claim 46, Augustin teaches a device comprising a blade carrier 22 and a device engagement arrangement 29 for setting the device against a surface such that a blade 23 carried by the blade carrier 22 cuts at a predetermined cut plan relative to the device engagement arrangement 29. It should be noted that the plane of the blade 23 is spaced from the plane of the device engagement arrangement 29.

Regarding claims 47 and 48, Augustin teaches everything noted above including that the device is adjustable with respect to the blade position relative to its spacing below the device engagement arrangement. It should be noted that at least during cut the blade 23 can

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be positioned below the level of the device engagement arrangement. The blade also can be positioned below the level of the device engagement arrangement when the device engagement arrangement 29 is located on the surface that is curved or inclined.

Regarding claim 50, Augustin teaches everything noted above including that the cut plane of the blade 23 is spaced from and adjacent the plane surface against which the device engagement arrangement 29 is placed.

### ***Conclusion***

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ghassem Alie whose telephone number is (571) 272-4501. The examiner can normally be reached on Mon-Fri 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley reached on (571) 272-4502. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, SEE <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Ghassem Ali/

Primary Examiner, Art Unit 3724

November 11, 2010